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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,718	03/26/2001	Myron Mosbarger	03882.009	1763

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PARSONS BEHLE & LATIMER
Suite 1800
201 South Main Street
Salt Lake City, UT 84111-2218

EXAMINER
TRAN, PHILIP B

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/817,718	Mosbarger et al
Examiner	**Art Unit**
Philip B. Tran	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jul 19, 2001*.

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-40* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *Mar 26, 2001* is/are a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). *4*
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 22-27 are objected to because of the following informalities:

In claim 22, line 3, "provide" should be "provider".

In claim 23, line 3, "provide" should be "provider".

In claim 24, line 3, "provide" should be "provider".

In claim 25, line 3, "provide" should be "provider".

In claim 26, line 1, "an" should be "and".

In claim 27, line 1, "an" should be "and".

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1 and 17-40 are rejected under 35 U.S.C 102(e) as being anticipated by Moura et al (Hereafter, Moura), U.S. Pat. No. 5,586,121.

Regarding claim 1, Moura teaches a communications system for communicating between an information provider and a user, comprising:

a client computer system, wherein said client computer system is a digital computer (i.e., RLA/user 29) [see Figs. 1 & 4];

a local area network connected to said client computer system (i.e., LAN 50 or 61) [see Figs. 3a-3b and Col. 7, Line 51 - Col. 8, Line 5];

a server computer (i.e., server) connected to said local area network to provide a means of communicating between said local area network and one or more external communication channels [see Figs. 1, 2, & 4-5 and Abstract and Col. 8, Lines 23-32 and Col. 8, Line 61 - Col. 9, Line 23];

a satellite communication channel (i.e., broadcast satellite network) connected to said server computer by a radio frequency link (i.e., wireless RF communication) [see Abstract and Col. 1, Lines 21-52]; and

an information provider (i.e., information provider 21) connected to one or more external communication channels for the purpose of providing information to one or more said client computer systems [see Fig. 1 and Col. 5, Line 21 - Col. 6, Line 28].

Regarding claim 17, Moura further teaches the information provider is an internet service provider (i.e., internet server).[see Fig. 1].

Regarding claim 18, Moura further teaches the information provider is a software distributor (i.e., software distributed system) [see Fig. 1 and Col. 3, Lines 25-40].

Regarding claim 19, Moura further teaches a modem electrically connected to said server computer to transmit data electronically to a telephone land line (i.e., modem connected for low speed broadcast channel with telephone return lines) [see Col. 1, Lines 22-24 and Col. 1, Lines 35-63].

Regarding claim 20, Moura teaches a process for asymmetrically communicating between an information service provider and a user, comprising receiving data from said information service provider by a satellite communications channel, and conveying said received data across a local area network to one or more digital computer systems (i.e., information received from the host server are forwarding to multiple client devices by the communication medium of broadcast satellite channel) [see Abstract and Fig. 1 and Col. 5, Line 22 - Col. 6, Line 29].

Regarding claim 21, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20, further comprising generating a request from said one or more digital computer systems to said information service provider (i.e., connection request from the client) [see Col. 2, Lines 45-61 and Col. 8, Lines 20-25].

Regarding claims 22-25, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20, further comprising conveying said generated request to said information service provider by one of the following : a landline communication channel, a satellite communication channel, a wireless communication channel, a routed communication channel (i.e., telephone line, or satellite broadcast channel, or wireless TV channel, or routing channel) [see Figs. 1-3c and Abstract and Col. 1, Line 35 - Col. 2, Line 10 and Col. 5, Line 22 - Col. 6, Line 29].

Regarding claim 26, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20, further comprising: receiving data from said satellite communications channel into computer hardware memory (i.e., buffers data received) [see Col. 8, Lines 23-33].

Regarding claim 27, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20 further comprising: checking to determine if said received data has an IP format (i.e., IP format) [see Fig. 13].

Regarding claim 28, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20 further comprising: checking to determine if said received data has a packetized format (i.e., packetized data) [see Abstract].

Regarding claim 29, Moura further teaches a process for asymmetrically communicating between an information service provider and a user, as recited in claim 20 wherein said one or more digital computer systems are connected electrically by a local area network (i.e., connected by switch, bridge or router) [see Figs 2a-2c].

Regarding claim 30, Moura teaches a method for controlling the transfer of information between an information service provider and a user, comprising receiving data from said information service, wherein said received data has a protocol identifier, determining the protocol of said received data, and delivering said data according to said protocol of said received data to a client computer (i.e., an asymmetric network communication system for use in a client - server environment having different channels operating at different speeds and /or under different protocols to provide efficient utilization of shared resources) [see Figs. 1-4 and Abstract and Col. 1, Line 35 - Col. 2, Line 10].

Regarding claims 31-32, Moura further teaches a method for controlling the transfer of information between an information service provider and a user, as recited in claim 30 further comprising receiving a return packet of data from said client computer and delivering said returned packet of data from said client computer to said information service provider (i.e., packet distribution)[see Abstract and Col. 24, Lines 11-43].

Claim 33 is rejected under the same rationale set forth above to claim 30.

Regarding claims 34-35, Moura further teaches a computer program to manage communications between an information service provider and a user, as recited in claim 33, further comprising a routine for determining an age value for said received information and a routine for replacing old received information with newer received information (i.e., queuing packets and emplacement in slots in the queue for the deletions made) [see Col. 2, Lines 11-32].

Regarding claim 36, Moura teaches a system for managing the communications between an information service provider and a user, comprising:

a digital computer system connected to a local area network (i.e., RLA/user 29 is connected to LAN 50 or 61) [see Figs. 1 & 3a-3b & 4 and Col. 7, Line 51 - Col. 8, Line 5];

a first interface device for communicating between said local area network and a satellite communication channel (i.e., LAN is connected to satellite channel) [see Figs. 1 & 2a-2c and Abstract];

a first connection between said satellite communication channel and a source of information and a second connection between said land line communication channel and a source of information (i.e., satellite channel is connected to the source of information and telephone line is connected to the Internet) [see Figs. 1 &4 and Abstract]; and

a means for controlling the flow of information between said digital computer system and said source of information (i.e., upstream router and downstream router control the flow of information between the client and source of information) [see Figs. 1 & 4 and Abstract and Col. 6, Line 30 - Col. 7, Line 50].

Regarding claims 37-40, Moura further teaches a system for managing the communications between an information service provider and a user, as recited in claim 36 further comprising a second interface device for communicating between said local area network and one of the following : a land line, a wireless channel, a satellite, a routed channel (i.e., telephone line, or satellite broadcast channel, or wireless TV channel, or routing channel) [see Figs. 1-3c and Abstract and Col. 1, Line 35 - Col. 2, Line 10 and Col. 5, Line 22 - Col. 6, Line 29].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Moura et al, U.S. Pat. No. 5,586,121.

Regarding claims 2-7, Moura does not explicitly teach the client computer system is one of the following : a personal computer, a Macintosh computer, a computer workstation, a mini computer, a mainframe computer, a special purpose digital computer. However, all these types of computer systems are old and well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement the client computer system as any comparable type of computer for being suitable to a predefined environment.

Regarding claims 8-14, Moura does not explicitly teach the client computer system has one of the following : a Windows operating system, a Windows 95 operating system, a Windows NT operating system, a Macintosh operating system, a Unix operating system, a Linux operating system, an OS/2 operating system. However, all these types of computer operating systems are old and well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to install any operating system for being compatible with the hardware system.

Regarding claims 15-16, Moura does not explicitly teach the local area network is a IPX network or IP network. However, Moura suggests IP address and TCP/IP data transmission packet protocol [see Fig. 13 and Col. 11, Lines 52-63 and Col. 13, Lines 35-44] and also all these types of network are old and well-known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to implement a LAN as a IP or IPX network in order to support TCP/IP protocol.

Other References Cited

6. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

A) Dillon, U.S. Pat. No. 5,995,726.

B) Dillon, U.S. Pat. No. 6,067,561.

C) Rothblatt, U.S. Pat. No. 6,105,060.

D) Donahue et al, U.S. Pat. No. 6,101,180.

7. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (703) 308-8767. The Group fax phone number is (703) 746-7239.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh, can be reached on (703) 305-9648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

PBT

Philip B. Tran
Art Unit 2155
Oct 29, 2002

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100